

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of BRENDA L. WALDON and DEPARTMENT OF VETERANS AFFAIRS,
VETERANS ADMINISTRATION MEDICAL CENTER, Perry Point, MD

*Docket No. 02-750; Submitted on the Record;
Issued July 22, 2002*

DECISION and ORDER

Before WILLIE T.C. THOMAS, MICHAEL E. GROOM,
A. PETER KANJORSKI

The issue is whether appellant has established a recurrence of disability causally related to her September 24, 2000 employment injury.

On October 11, 2000 appellant, then a 39-year-old food service worker, filed a claim alleging that she sustained a back injury on September 24, 2000 while lifting cases. Appellant returned to light duty and her attending physician indicated that she could resume regular duties on November 2, 2000. The Office of Workers' Compensation Programs accepted the claim for a lumbar sprain.

On July 11, 2001 appellant filed a notice of recurrence of disability. Appellant stated on the claim form that she had been experiencing pain after walking, sitting or standing for long periods. By decision dated December 17, 2001, the Office denied the claim on the grounds that appellant had not submitted factual evidence sufficient to establish fact of injury.

The Board finds that the case is not in posture for decision.

The regulations implementing the Federal Employees' Compensation Act¹ provide that a decision of the Office "shall contain findings of fact and a statement of reasons."² The Office's procedure manual provides "the reasoning behind the CE's [claims examiner's] evaluation should be clear enough for the reader to understand the precise defect of the claim and the kind of evidence which would overcome it."³

¹ 5 U.S.C. §§ 8101-8193.

² 20 C.F.R. § 10.126.

³ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Disallowances*, Chapter 2.1400.4(e) (March 1997); *see also James B. Bowers, III*, 44 ECAB 121 (1992).

In this case, the December 17, 2001 Office decision fails to identify or discuss the relevant issues in the case. Appellant has filed a notice of recurrence of disability commencing in July 2001; the Office decision purports to deny the claim on the grounds that factual evidence on the issue of “fact of injury” had not been submitted. The record indicates that the Office has accepted a lumbar sprain in this case, and fact of injury is not the issue presented. Although the Office referred to a November 14, 2001 letter requesting the submission of evidence on the recurrence of disability claim, the decision finds that appellant failed to submit factual evidence establishing an incident at the time, place and in the manner alleged. The December 17, 2001 decision does not provide appellant with an understanding of the precise defect of the claim. As the Office failed to properly address the relevant issues, make appropriate findings of fact and provide an adequate statement of reasons, the case will be remanded for an appropriate merit decision on the recurrence of disability claim.

The decision of the Office of Workers’ Compensation Programs dated December 17, 2001 is set aside and the case remanded for further action consistent with this decision of the Board.

Dated, Washington, DC
July 22, 2002

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member